

Appl. No. 10/797,512
Amdt. Dated October 1, 2004
Reply to Office Action of August 23, 2004

Remarks/Arguments

Claims 1 - 2 are pending in the present application. No claims have been added, canceled or amended. Reconsideration of the claims is respectfully requested.

I. Interview

On September 21, 2004 the Examiner granted a telephonic interview for the purpose of discussing the outstanding rejection. A copy of the Interview summary is contained herein at the request of the Examiner.

II. 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claims 1 and 2 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicants regard as the invention.

Claim 1, at line 6, has been amended as per the Examiner's suggestions.

As to the Examiner's second point, that the specification does not provide support for "each of said first part and said second part of said output circuit is connected at one side to a third voltage level and said first signal range being between a third voltage level and a fourth voltage level," this rejection is respectfully traversed.

Support for the claim limitation can be seen in **FIGURE 8** and at page 10, lines 25 - 29. Here, the Examiner is reminded that the parent application, U.S. Patent Application No. 09/668,681 (now U.S. Patent No. 6,731,151), was subject to an election of species to the sole invention shown in **FIGURE 9**, under traverse, and which was maintained throughout the prosecution of that case. **FIGURE 9** shows a circuit including level-shifting according to the first embodiment of the present invention of **FIGURE 7**, while **FIGURE 8** shows a non-elected specie, or second embodiment, according to the teachings of the present invention for analog switching.

Appl. No. 10/797,512
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III. 35 U.S.C. § 101, Double Patenting

The Examiner has rejected claims 1 and 2 under 35 U.S.C. § 101 as claiming the same invention as U.S. Patent No. 6,731,151 (the '151 patent). This rejection is respectfully traversed.

The claims of the '151 patent are directed to the subject matter shown in **FIGURE 9** and that application was the subject of an election of species based on that figure. The restriction requirement was traversed, but made final by the Examiner. At no time did the Examiner withdraw that requirement during the prosecution of the '151 patent application.

35 U.S.C. §121 states, in part

A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application.

Since the '151 patent was the subject of a restriction requirement and the present patent application has been filed solely for the purpose of capturing subject matters that were restricted from claiming in that patent application, the '151 patent cannot now be used as a reference against the parent application.

Furthermore, claim 1 of the '151 patent recites, in part, "an output circuit being adapted for outputting an output signal having a first signal range, said output circuit comprising a first part and a second part, each of said first part and second part having an input terminal, wherein said first signal range being between a third voltage level and a fourth voltage level..." Nowhere do the claims in the '151 patent recite "each of said first part and said second part of said output circuit is connected at one side to a third voltage level," as recited in the present application.

Appl. No. 10/797,512
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Therefore, for the reasons given above, it is respectfully asserted that the rejection of claims 1 and 2 under 35 U.S.C. § 101 is improper and should be withdrawn.

IV. Judicially Created Obvious-Type Double Patenting

The Examiner has rejected claims 1 and 2 under 35 U.S.C. § 101 as claiming the same invention as U.S. Patent No. 6,731,151 (the '151 patent). This rejection is respectfully traversed.

As discussed above, since the '151 patent was the subject of a restriction requirement, with traverse, and the present patent application was filed as a divisional application solely for the purpose of recapturing the subject matters that were restricted from claiming in that patent application. Therefore, the '151 patent cannot now be used as a reference against the parent application (35 U.S.C. § 121).

It is respectfully asserted that the rejection of claims 1 and 2 under the judicially created doctrine of obvious-type double patenting is improper and should be withdrawn.

Appl. No. 10/797,512
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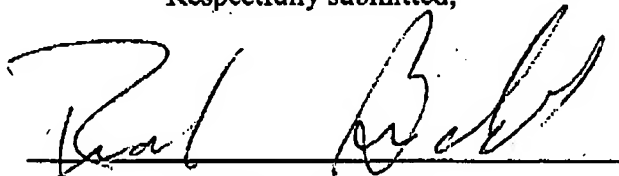
V. Conclusion

It is respectfully urged that the subject application is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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